KELOWNA FORECLOSURES

BUYER'S GUIDE · EDITION I · OCTOBER 2026

The Foreclosure Buyer's Guide

How to buy a court-ordered sale in British Columbia

Everything a buyer needs to know before bidding on an Okanagan foreclosure, from the first missed payment to the approval hearing, the vesting order and the keys. It covers the statutes, Supreme Court Civil Rules, practice directions and leading cases that govern each step.

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Important notice. This guide is general legal information, not legal advice. It was compiled in October 2026 from the Supreme Court Civil Rules, BC and federal statutes, Supreme Court Practice Direction PD-66, the Law Society of BC Foreclosure Procedure checklist (current to September 4, 2025), and reported BC decisions. Law and court practice change, and every file turns on its own facts and documents. Lenders, borrowers and buyers should get advice from a BC lawyer before acting. John McMahon and Kaila Klassen are REALTORS®, not lawyers, and do not give legal advice.

REVIEWED BY (BC LAWYER) | FIRM | DATE

CONTENTS

What this guide covers

1 How foreclosure works in BC

2 The legal framework: statutes, rules and practice directions

3 Who's involved, and key terms

4 The timeline at a glance

5 Step 1 – Default and the demand letter

6 Step 2 – The petition, the CPL and service

7 Step 3 – The order nisi hearing

8 Step 4 – The redemption period

9 Step 5 – Order for conduct of sale

10 Step 6 – Listing and marketing the property

11 Step 7 – The accepted offer and Schedule A

12 Step 8 – The application to approve the sale

13 Step 9 – The approval hearing and sealed bids

14 Step 10 – Vesting order, completion and the money

15 Step 11 – Possession, tenants and occupants

16 Step 12 – Shortfall: deficiency and personal judgment

17 The alternative: order absolute

18 Special situations

19 Interest, costs and fees

20 Buying a court-ordered sale: the buyer's guide

21 For lenders: running a sale the court will approve

22 The REALTOR®'s role and obligations

23 Frequently asked questions

24 Case law table

25 Sources and further reading

HOW TO READ THIS GUIDE

Each step names who acts, the governing rule or statute, what the court expects to see, and the typical timing. References look like **Rule 21-7(7)** (Supreme Court Civil Rules), **LEA s. 25** (*Law and Equity Act*), **PLA s. 32** (*Property Law Act*), **LTA** (*Land Title Act*), **RTA** (*Residential Tenancy Act*) and **BIA** (*Bankruptcy and Insolvency Act*). Case names are in italics, with neutral citations so a lawyer can pull them on CanLII.

THE FIVE THINGS THAT SURPRISE PEOPLE MOST

1. **A BC foreclosure is a court process from start to finish.** A judge or associate judge of the BC Supreme Court controls every major step, including the sale price.
2. **An accepted offer is not a sale.** It is a starting bid that other buyers can beat in open court on the morning of the hearing.
3. **The owner can stop it until the court approves the sale** by paying out the mortgage (redeeming).
4. **Selling for less than the debt does not end the borrower's liability.** The lender can still collect the shortfall on the personal judgment, unless it takes title by order absolute.
5. **Buyers get almost no protection.** Sales are "as is, where is", with no warranties and usually no Property Disclosure Statement. Once approved, the sale is final.

1 How foreclosure works in BC

British Columbia uses judicial foreclosure. The lender cannot simply take or sell the property; it must ask the BC Supreme Court, and the court supervises the sale.

A mortgage is security for a debt

A mortgage registered at the Land Title Office is a charge on the land. It secures a loan and gives the lender (the **mortgagee**) the right to enforce against the property if the borrower (the **mortgagor**) defaults. The borrower keeps the **equity of redemption**: the right to get the property back free of the mortgage by paying what is owed. Equity has long protected that right ("once a mortgage, always a mortgage"), and much of BC foreclosure procedure exists to give the borrower a fair chance to use it.

What "foreclosure" means in practice

Strictly, foreclosure is the court ending the borrower's right to redeem. In BC the proceeding nearly always ends in a **court-ordered sale**, not the lender keeping the property. The court gives the borrower time to pay (the **redemption period**). It then lets a party (usually the lender) sell under a **conduct of sale** order and approves the final price at a public hearing. The proceeds pay the charges in order of priority, and any surplus goes to the owner.

How BC differs from other places

PROCESS	HOW IT WORKS	RELEVANCE IN BC
Judicial foreclosure / court-ordered sale	The lender petitions the BC Supreme Court. The court sets a redemption period, grants conduct of sale and approves the sale price.	The standard route for residential and most commercial mortgages.
Power of sale (common in Ontario)	The lender sells privately after statutory notice, without court approval of the price.	Not used in practice for BC land mortgages. Listings marketed as "power of sale" in BC are usually mislabelled.
Order absolute	The court transfers title to the lender outright and extinguishes the debt (PLA s. 32).	Available but uncommon. See Section 17.
Receivership	A court-appointed receiver manages and sells the property, often income-producing or under construction.	Used for commercial, revenue and development property (LEA s. 39; BIA s. 243). Receivers' sales use "approval and vesting orders".
Annual tax sale	A municipality auctions property with delinquent taxes. The owner has a one-year redemption period after the sale.	A separate process under the property tax legislation, not foreclosure.
Other court-ordered sales	Sales ordered in family-law, partition (*Partition of Property Act*) and judgment-enforcement (*Court Order Enforcement Act*) proceedings.	Similar listing and approval mechanics. This guide focuses on foreclosure.

Why it matters to each side

FOR THE LENDER

The lender recovers principal, interest and costs through a sale the court will approve. The court's main concern is whether the price is **provident**, meaning reasonable in all the circumstances, and whether the property was marketed in a **businesslike** way (*Mission Creek Mortgage Ltd. v. Angleland Holdings Inc.*, 2013 BCCA 281). Strong marketing evidence is what gets an approval order.

FOR THE BUYER

There may be an opportunity to buy below the market price that a regular sale would fetch. The price is fewer protections and more uncertainty: no warranties, no disclosure statement, a competitive hearing, and a closing timeline the court controls.

2 The legal framework

No single statute governs BC foreclosure. The rules come from court rules, several provincial statutes, federal statutes, the mortgage document itself, and decades of case law.

SOURCE	WHAT IT DOES IN A FORECLOSURE
Supreme Court Civil Rules, Rule 21-7 (Foreclosure proceedings)	The core procedural rule. Requires foreclosure to start by petition and sets who must be named (persons whose interest is "sought to be extinguished", Rule 21-7(2)). Requires the Form 125 informational notice for borrowers (Rule 21-7(4.1)), allows any party of record to apply for conduct of sale (Rule 21-7(7)), covers vesting on sale (Rule 21-7(9)) and order absolute (Rule 21-7(6)). Sets the 14-day costs-assessment deadline after a redemption notice (Rule 21-7(10)).
Rule 13-5 (Sale of land by court order)	Gives the court broad discretion to order a sale where "necessary or expedient". Lets it direct who has conduct, the method (listing, tender, auction), reserve prices, conditions, commission and access (Rule 13-5(4)). Requires a certificate of result of sale after completion (Rule 13-5(6), Form 60).
Rules 16-1, 8-1, 4-3/4-4, 13-1, 18-1, 22-2	Petition procedure and hearing records (16-1). Applications within the proceeding (8-1). Personal and alternative service (4-3, 4-4). Entry of orders and approval of form (13-1). Accounts referred to the registrar (18-1). Affidavit evidence, including no hearsay for final orders (22-2(13)) and remote commissioning (22-2(6.1)).
Practice Direction PD-66 (Foreclosure Proceedings, effective March 3, 2025)	Requires in-person attendance in most cases. Sealed bids for approval-of-sale hearings must be collected in the courtroom by **9:45 a.m.**, each with a **copy** of proof of deposit. Late bids are at the court's discretion. Foreclosures are heard only on set days at each registry. Replaces PD-33 and PD-62.
Law and Equity Act	Venue: foreclosure must be brought in the registry for the area where the land sits unless the mortgagor consents (s. 21). Relief against acceleration of the full balance (s. 25). Summary accounting (s. 18). Vesting orders (s. 37). Receivers (s. 39).
Property Law Act	Once an order absolute is granted, the lender cannot sue on the personal covenant (s. 32). Deemed covenants and releases of later purchasers who assume a mortgage (ss. 20–24).
Land Title Act	Registration of charges and their priority by registration order. The certificate of pending litigation (CPL) notifies the world of the proceeding; charges registered after the CPL are cleared by the vesting order (s. 30 together with Rule 21-7(4)). Certified court orders are registrable (s. 271).
Limitation Act, S.B.C. 2012, c. 13	General two-year limitation, with exceptions and transition rules (s. 30). Acknowledgments of debt can restart or extend time (ss. 24–26). The lender's lawyer must check this at intake.

SOURCE	WHAT IT DOES IN A FORECLOSURE
Interest Act (federal)	Section 8 bars a fine, penalty or higher rate on arrears that would make the charge on arrears exceed the rate on principal not in arrears.
Bankruptcy and Insolvency Act (federal)	Bankruptcy does not generally stop a secured lender realizing on its security (s. 69.3(2)). A 10-day notice of intention to enforce is required against an insolvent business debtor's property (s. 244). Receivers (s. 243).
Farm Debt Mediation Act (federal)	A farmer must get a prescribed 15-business-day notice before enforcement. A non-compliant enforcement step is a nullity (ss. 21–22).
Residential Tenancy Act	A possession order is generally not enforceable against a tenant who was not a party (s. 94). Covers ending a tenancy for a purchaser's use (four months' notice through the Landlord Use Web Portal since July 18, 2024).
Strata Property Act	Strata corporation liens for unpaid strata fees and certain charges (s. 116), and their priority on sale.
Real Estate Services Act and Rules; BCFSA	Licensee duties, including disclosure of known material latent defects before a contract (Rules s. 59). This duty cannot be contracted out of, even in an "as is" court sale.
The mortgage itself	Default events, acceleration clause, interest rate, costs clause (often solicitor-and-client costs), protective disbursements, assignment of rents, and any guarantees or collateral security.

Section numbers are given as cited in the Law Society of BC Foreclosure Procedure checklist (E-1) and current statutes. Confirm against the current consolidation on BC Laws before relying on them.

3 Who's involved, and key terms

A court-ordered sale has more parties than a regular sale, and the legal vocabulary is old. Here is everything you will see in the court documents.

The players

PARTY	ROLE
Petitioner	The party starting the foreclosure, usually the first or second mortgagee. Bank, credit union, MIC or private lender.

PARTY	ROLE
Respondents	Everyone whose interest would be affected: the mortgagor and registered owners, covenantors and guarantors (if personal judgment is sought), every chargeholder ranking behind the petitioner (later mortgages, judgments, builders' liens, strata liens), tenants and other occupants.
Associate judge / judge	Uncontested foreclosure applications are usually heard in chambers by an associate judge (formerly "master"). Matters with a triable issue may go to a judge.
District registrar	Takes accounts when referred, assesses costs, issues the writ of possession and certificates.
Conduct-of-sale party ("Approved Seller")	The party the court authorizes to sell. Acts as vendor for most purposes and signs the listing contract, so it is the listing REALTOR®'s client.
Listing REALTOR®	Markets the property under the court order, collects offers and sealed bids, and gives evidence of marketing for the approval application.
Conduct counsel	The lawyer for the party with conduct. Prepares applications, recommends an offer to the court, and handles the vesting order and completion.
Buyers / bidders	The original (accepted) offeror and any competing bidders at the approval hearing. Each should have a REALTOR® and a lawyer.
Court bailiff	Enforces a writ of possession if occupants will not leave.

Glossary

Acceleration	The lender's right on default to demand the whole balance immediately. Relief may be granted under LEA s. 25 by paying arrears.
Arrears / reinstatement	Missed payments. Paying them (plus costs) brings an unmatured mortgage back into good standing.
Redemption	Paying the full amount owing to clear the mortgage and end the foreclosure.
Petition	The court document that starts the foreclosure (Form 66).
CPL	Certificate of pending litigation, registered on title to warn anyone dealing with the land.
Order nisi	The first main order. Declares default, fixes the amount owing, sets the redemption period and usually grants personal judgment. It is a final order; later orders are ancillary to it.
Redemption period	Time the owner has to pay out. Usually six months; can be shortened or extended.
Conduct of sale	Court authority for a party to list and sell the property.

Order approving sale	The order accepting a specific offer and price, usually with a vesting order.
Vesting order	Transfers title to the buyer on registration and clears the charges the order covers.
Order absolute	Transfers title to the lender and ends the right to redeem and the personal debt.
Personal judgment / deficiency	Judgment against the borrower and guarantors for the debt, used to collect any shortfall after sale.
Schedule A	The conduct party's addendum to the contract. Makes the sale "as is, where is", subject to court approval, with no warranties.
Sealed bid	A competing, subject-free offer delivered in the courtroom on the morning of the approval hearing.
Provident	The court's standard: a sale reasonable and prudent in all the circumstances.
Protective disbursements	Taxes, insurance, strata fees and repairs paid by the lender to protect its security, added to the debt.
Writ of possession	Court document letting a bailiff remove occupants.

4 The timeline at a glance

A typical uncontested residential file runs about 8 to 14 months from default to completion. Contested files, tenant issues or a slow court calendar can stretch it further.

Months 0–3
Missed payments, reminder, demand letter (Step 1)

Months 2–4
Petition, CPL, service, 21-day response (Step 2)

Months 3–5
Order nisi hearing; redemption period starts (Step 3)

Months 4–10
Redemption period; conduct of sale; listing (Steps 4–7)

Months 8–14
Approval hearing, completion, possession (Steps 8–11)

#	STAGE	KEY DEADLINE OR RULE	TYPICAL DURATION
1	Default and demand	Reasonable time to pay (*Lister*); 10 days BIA s. 244 (business); 15 business days FDMA (farmers)	Lenders usually act after 2–3 missed payments. Demand period commonly 10–30 days.
2	Petition filed and served	Response due 21 days after service in Canada (longer if served outside Canada)	2–6 weeks, longer if the borrower is hard to serve.

#	STAGE	KEY DEADLINE OR RULE	TYPICAL DURATION
3	Order nisi hearing	Notice of hearing at least 7 clear days before (Rule 16-1(8)(b)); petition record by 4 p.m. the day before	Often 1–2 months after filing, depending on the registry's foreclosure days.
4	Redemption period	Usually 6 months from the order nisi; can be shortened if there is no equity or the property is at risk	0–6+ months.
5	Conduct of sale	Lender: usually at or after expiry. Later chargeholders: often about 3 months in	Granted at a short chambers hearing.
6–7	Marketing and accepted offer	Offer subject to court approval; subjects removed before the hearing	Varies with the market; commonly 2–12 weeks.
8–9	Approval hearing	Sealed bids in the courtroom by 9:45 a.m. (PD-66)	Commonly 2–4 weeks after subjects are removed.
10	Completion	Per the approved offer and order	Often 2–5 weeks after approval.
11	Possession	Occupied homes: generally about 30 days to vacate; RTA rules for tenants	Writ of possession and bailiff if needed.

THE OWNER CAN STOP IT UNTIL APPROVAL

Through every stage up to the order approving sale, the owner can redeem by paying the full redemption amount and assessed costs, or reach a settlement with the lender. Buyers should treat every court-ordered listing as able to vanish until the court approves the sale.

5 Step 1 – Default and the demand letter

Before any court filing, the lender must establish a default and make a proper demand for payment.

What counts as default

The mortgage defines default. Typical events: missed payments; failing to pay property taxes, strata fees or insurance; letting the property waste or deteriorate; further encumbrances or sale without consent; bankruptcy; and failing to pay out on maturity. Missed payments are by far the most common.

The demand

- **Who receives it:** the current registered owner, the original mortgagor, every covenantor and guarantor, assuming purchasers, and an estate representative, committee or trustee where applicable.
- **Types:** arrears only (reinstatement); acceleration of the full balance; a combination; or the full balance after maturity.
- **Contents:** the exact amount owing, or the reinstatement amount and a deadline. The redemption balance must not include a prepayment penalty: a lender that demands the full balance cannot later claim one.
- **Reasonable time:** at common law the debtor must get a reasonable time to pay before enforcement (*R.E. Lister Ltd. v. Dunlop Canada Ltd.*, 1982 CanLII 19 (SCC)).
- **Statutory notices:** BIA s. 244 notice of intention to enforce security (10 days) for an insolvent business debtor. FDMA notice of intent to realize (15 business days) for a farmer. A non-compliant FDMA step is a nullity.
- **Delivery:** by a method that complies with the mortgage, the statute and any regulation, with proof kept for the affidavit.

Lender's lawyer intake (before filing)

- ☐ Full title search: owner, every charge and its priority, pending applications, legal notations. Also search other properties of the borrowers and guarantors.
- ☐ Confirm the mortgage covers every PID at the civic address.
- ☐ Land Owner Transparency Registry search; corporate searches (a dissolved company may need restoration, and its land may have escheated to the Crown).
- ☐ Property tax status (tax-sale risk), BC Assessment value, strata status, insurance in force.
- ☐ Occupancy: owner, tenants (names, rent), vacant or abandoned.
- ☐ Manufactured home and Personal Property Registry searches; First Nations land registries where relevant.
- ☐ Check the limitation period and any acknowledgments.
- ☐ Client identification and source-of-funds checks; private-loan fraud red flags (Law Society rules).

BORROWER OPTIONS AT THIS STAGE

Pay the arrears; negotiate a forbearance or payment plan; refinance; sell voluntarily while still in control (often the best financial outcome); or, where there is no equity, negotiate a consent order with a full release of personal liability.

6 Step 2 – The petition, the CPL and service

Foreclosure starts by petition in the BC Supreme Court registry for the area where the property is located.

2a Venue

LEA s. 21

The petition must be filed in the registry where the land is located unless the mortgagor consents to another. Okanagan properties are generally filed at Kelowna, Vernon, Penticton or Salmon Arm, depending on location; boundary areas need checking. The court can transfer a proceeding (*Island Savings Credit Union v. Brunner*, 2014 BCCA 449).

2b Documents filed

Petitioner's lawyer

- **Petition**, naming the mortgagor, covenantors (if judgment is sought), registered owners, every later chargeholder, tenants and anyone else affected.
- **Lender's affidavit:** principal, interest, protective disbursements and a per-diem; copies of the mortgage, modifications and demand; confirmation no prepayment penalty is claimed; tax certificate; proof of statutory notices; and no known defence. If a shortened redemption period is sought: an appraisal and a deficiency calculation.
- **Form 125 informational notice** for the borrower (Rule 21-7(4.1)).
- **Certificate of pending litigation**, registered at the Land Title Office, then a fresh title search. Any chargeholder registered before the CPL must be added as a respondent.

2c Service

Rules 16-1(3), 4-3, 4-4, 21-7(2), (4.1)

The petition, affidavits and Form 125 must be personally served on every respondent. Special rules apply to companies, the Crown, financial institutions, strata corporations and persons under legal disability. If personal service fails, the court can order alternative service (Rule 4-4).

2d Response

Respondents

A respondent served in Canada has **21 days** to file a response to petition and supporting affidavits, and must serve copies on the petitioner. Once a response is filed, no step can be taken without notice to that respondent. If no response is filed, the foreclosure proceeds without further notice to that party. Common grounds raised: the amount claimed, improper demand, a request for more time, or that the property has equity and is being sold.

2e Setting the hearing

Rule 16-1

The petitioner sets an order nisi hearing on one of the registry's foreclosure days, with at least seven clear days' notice (Form 68) to respondents who filed responses. A petition record is filed by 4 p.m. the day before (or e-filed in pilot registries). If no triable issue has been raised, the petition may be heard in chambers by an associate judge (*Western Arres Capital Inc. v. Currey*, 2011 BCSC 522). Hearings expected to run two hours or more must be scheduled by the registrar.

7 Step 3 – The order nisi hearing

The order nisi is the key order in the case. It confirms the lender's rights, fixes the amount owing and starts the redemption clock.

What the lender asks for

1. A declaration that the mortgage is valid, enforceable and registered.
2. A declaration that the mortgagor is in default.
3. A summary accounting of the amount required to redeem (LEA s. 18), including per-diem interest and protective disbursements.
4. The length of the redemption period.
5. Personal judgment against the mortgagor and covenantors (and on unsecured debt, where included).
6. Leave to apply for a further accounting.
7. Costs.
8. Sometimes conduct of sale or an order absolute immediately, in special circumstances.

The redemption period

The standard redemption period in BC is **six months**, usually running from the date of the order nisi (*Three Point Capital Corp. v. Monn*, 2026 BCSC 137, ran it from the original hearing date). The court has discretion to set a different period:

SHORTENED (OR IMMEDIATE)

Where there is little or no equity, the property is abandoned, vacant or wasting, taxes are unpaid, or the lender's security is in jeopardy. Evidence: a current appraisal (courts prefer appraisals to assessment values), market evidence, and a deficiency calculation.

EXTENDED

Rarely more than six months at first; extensions are usually sought later. The owner must show real equity and a realistic prospect of paying within the extra time (*Canada Permanent Mortgage Corp. v. Dan-Al Construction Co.*, [1982] B.C.J. No. 2339 (CA)).

After the hearing

- The order is circulated for approval of its form. If a respondent does not sign or object within 14 days, it can be entered without their signature (Rule 13-1). The court may dispense with a self-represented respondent's signature.
- The entered order is sent to all respondents; the lender's lawyer diarizes the expiry date.
- The personal judgment is enforceable right away: the lender can register judgments against the borrower's other property and use enforcement remedies without waiting for the sale, although doing so may prompt applications to extend redemption.
- Costs are fixed at the hearing or assessed later. Scale A applies by default; Scale B where the foreclosure was contested (as in *Three Point Capital*). The mortgage often entitles the lender to costs on a higher basis as part of the secured debt.

NO DISCONTINUANCE WITHOUT LEAVE

After an order nisi, the petitioner cannot file a notice of discontinuance without the court's permission. The borrower can apply to vacate the order nisi in special circumstances, to extend the redemption period, or to appeal.

8 Step 4 – The redemption period

The redemption period is the owner's protected window. What happens during it decides most outcomes.

The owner's options

OPTION	HOW IT WORKS	WATCH FOR
Redeem	Pay the redemption amount in the order nisi, plus per-diem interest and assessed costs. The CPL is removed and the mortgage discharged.	If the borrower gives notice under Rule 21-7(10), the lender must take out a costs appointment within 14 days or risk losing assessed costs.
Refinance	New loan from another bank, credit union, MIC or private lender, or from family.	Often hard: the default usually followed an income problem. Alternative lenders are the usual source.
Sell it themselves	The owner can list with a REALTOR® while still in control, subject to the court's approval if any order requires it.	A credible listing at market price is strong evidence against early conduct of sale.
Negotiate	Forbearance, reinstatement of an unmatured mortgage, a consent order, or a voluntary transfer in exchange for a release.	Get the release in writing from every lender that matters.
Do nothing	The process continues. The owner keeps living in the property until a sale or possession order.	Interest, costs and protective disbursements keep growing and come out of the owner's equity.

What other parties can do during redemption

- **Apply for conduct of sale** (Step 5). A later chargeholder whose security is at risk is the most common early applicant.
- **Apply for approval of a sale** that any party has found.
- **Apply to appoint a receiver**, for example for revenue property, vacant property or construction.
- **Pay out the senior lender**: a later chargeholder can redeem the first mortgage to protect its position.

Equity: the factor that decides the pace

The court constantly weighs whose money is at risk. Where there is clear equity, it protects the owner's chance to redeem or sell. Where costs and interest are eating the last of the equity, it moves faster. Applicants should give the court a simple equity calculation:

Market value (appraisal or realistic list price) **minus** property taxes owing, priority strata liens, the first mortgage redemption amount, later charges, real estate commission and GST, legal costs, and accruing interest to the expected completion date **equals the equity at risk**.

9 Step 5 – Order for conduct of sale

A conduct of sale order gives one party the authority to list and sell the property, under the court's supervision.

Who can apply and when

- **Any party of record** may apply (Rule 21-7(7)).
- **The petitioning lender:** after the redemption period expires, it has a prima facie right to conduct of sale, subject to the court's equitable discretion. It may also ask at the petition hearing.
- **Later chargeholders:** may apply any time during redemption. As a long-standing rule of thumb, around three months into the period even where equity appears to exist (McEachern, "On Foreclosure Practice" (1983), 41 The Advocate 583).
- **Concurrent order nisi and conduct of sale** is only for special circumstances (*CIBC Mortgage Corp. v. Gomez*, 1997 CanLII 1823 (BCSC)). Conduct during redemption generally conflicts with the right to redeem (*Pope v. Roberts* (1979), 10 B.C.L.R. 50 (CA)). The court generally will not grant, at the petition hearing, a sale order that takes effect when a six-month redemption period expires (*HSBC Bank Canada v. A.S. Bains Developments Ltd.*, 2015 BCSC 2194).

Evidence the court expects

- ☐ Value: a recent appraisal, preferred over BC Assessment.
- ☐ All debts: prior and later charges, taxes, strata arrears.
- ☐ The marketing plan: usually MLS® listing with a named brokerage, commission rate and term.
- ☐ Access arrangements, viewing times and any special terms.
- ☐ Disclosure of any other conduct orders over the same property, with notice to affected chargeholders.

What the order typically says

- Who has conduct, and that they may list with a named brokerage, usually through MLS®, at a price set by the conduct party or the court.
- Access: the owner or occupants must allow showings on reasonable notice; sometimes a lockbox, sometimes forced entry.
- That any sale is subject to court approval unless all parties agree.

- That the owner and others may not deal with the property in ways that interfere with the sale.

Access problems

If occupants refuse showings, the conduct party can apply for an order for forced entry, supported by the demand letter and a log of the REALTOR®'s attempts to arrange access. In rare cases (defiance of an access order, unsafe property, dangerous behaviour) the court may order **vacant possession** before sale. The REALTOR® should swear the affidavit, and the order should direct the registrar to issue a writ of possession enforceable by court bailiffs.

10 Step 6 – Listing and marketing the property

Marketing is where the price is made and where the evidence for the approval hearing is built. The court will look closely at how the property was exposed to the market.

The listing agreement must say

- ☐ The sale is **subject to court approval**.
- ☐ Commission is payable **only on completion of a court-approved sale**.
- ☐ The listing is **subject to the owner's right to redeem**; no commission is payable if the owner redeems.
- ☐ It **overrides any existing listing** on the property, even an unexpired one.
- ☐ It covers only the property charged by the mortgage (normally no chattels or personal property).
- ☐ The court may vary or end the listing at any time.

Marketing that stands up in court

Courts treat real offers and genuine market exposure as the best evidence of value; an appraisal is only an expert opinion (*Romspen Mortgage Corp. v. Lantzville Foothills Estates Inc.*, 2013 BCSC 2222). Approval was refused where a property was offered at about 91% of appraisal after roughly three and a half months without marketing in a strong market (*Providus Mortgage Investment Corp. v. JDS Properties Ltd.*, 2016 BCSC 955). Good practice:

- Price close to the appraisal and current comparables; document any reductions and the reasons for them.
- Full MLS® exposure, professional photos, floor plan and description, plus direct outreach to investor and buyer networks.
- Keep marketing **right up to the approval hearing**. Competing bidders at the hearing are the price test.
- Keep a complete log of showings, inquiries, feedback, offers and advertising. It becomes the Marketing Service Report attached to an affidavit.

EVIDENCE RULES FOR THE REALTOR®'S REPORT

Hearsay is not allowed to support a final order, with limited exceptions (Rule 22-2(13)). When a REALTOR®'s marketing report is put in evidence, the affidavit must identify its source and confirm it is true (*Elite Mortgage Corp. v. Derewenko*, 2019 BCCA 125). In practice, the listing REALTOR® often swears the affidavit personally.

Property-specific requirements

- **Used manufactured homes:** must show a provincial safety (silver) label before listing (Electrical Safety Regulation s. 21(1)(d)).
- **Personal property included:** PST and GST must be collected and remitted by the conduct party. Get tax advice, especially for non-resident owners.
- **Strata:** collect bylaws, minutes, depreciation report and Form B where available. The Form F rules for regular sales do not apply (*Peoples Trust Co. v. Meadowlark Estates Ltd.*, 2005 BCSC 51).
- **No Property Disclosure Statement** is normally given; the conduct party has no first-hand knowledge.

11 Step 7 – The accepted offer and Schedule A

When the conduct party accepts an offer, it becomes the "original offer": the starting point for the approval hearing, not a done deal.

Structure of a court-sale contract

- **Standard Contract of Purchase and Sale**, with the conduct party (for example "XYZ Mortgage Corp., with conduct of sale under order of the Supreme Court of BC, File No. ___") as seller.
- **Schedule A** from the conduct party's lawyer. It often overrides the contract and typically provides:
  - The sale is subject to approval by the BC Supreme Court, and the seller can make no promise that approval will be granted.
  - The property is sold "as is, where is", with no representations or warranties about condition, size, zoning, permits, environmental status or anything else.
  - The seller need not deliver vacant possession unless the court orders it, and need not remove chattels or garbage.
  - Other offers may be presented to the court, and the court may approve a different one.
  - The buyer cannot rely on the seller's statements and must make its own inquiries.
  - If approval is refused or the owner redeems, the contract ends, the deposit is returned, and the buyer has no claim against the seller.
  - Adjustments, completion and possession dates tied to the date of the approval order.

- The buyer's own subjects (financing, inspection, strata documents), which must be removed before the hearing.

From acceptance to the application

1. The offer is accepted, subject to court approval.
2. The buyer completes due diligence and removes subjects (sometimes the conduct party will not apply until they are removed).
3. The deposit is paid as the contract requires, usually to the listing brokerage's trust account or conduct counsel.
4. Conduct counsel books the approval hearing and serves the application (Step 8).
5. The listing stays active, shown as "subject to court approval", so other buyers can prepare sealed bids.

A PROTECTION FOR THE ORIGINAL BUYER: NONE

The original buyer has no right of first refusal and no guaranteed chance to match. Under PD-66 the original buyer can only improve its offer by the same 9:45 a.m. deadline as other bidders. Courts generally do not approve "backup offers" in advance; an approval order for a backup offer is unenforceable (*Addenda Capital Inc. v. 0781995 B.C. Ltd.*, 2016 BCSC 957).

12 Step 8 – The application to approve the sale

Any party, even one without conduct, may apply for approval of a sale. The court's main concern is whether the price is adequate.

The legal test

The court asks whether the proposed sale is **provident**, meaning reasonable in all the circumstances, and whether the property was marketed in a **businesslike** way (*Mission Creek Mortgage Ltd. v. Angleland Holdings Inc.*, 2013 BCCA 281). Courts look at:

- The price against the appraisal, assessment and comparables, and the reasons for any gap.
- The length and quality of market exposure and the number and quality of offers.
- The terms: deposit size, completion date, conditions.
- Whose interest is at stake: a large shortfall to the lender, or equity the owner stands to lose.
- Whether the process has been fair to everyone involved, including buyers who relied on it.

The application package

☐ Notice of application and draft order (Rules 8-1, 13-5, 21-7).

- [ ] An updated appraisal, or evidence the existing one is still current (often filed sealed so it does not set a price ceiling for bidders).
- [ ] Listing history, advertising, showings, offers and a marketing report up to the date of the application.
- [ ] A copy of the accepted offer and Schedule A.
- [ ] Balances of all prior and later charges, taxes and strata liens, plus the commission.
- [ ] A proposed distribution of the proceeds.

Notice

The application must be served on the mortgagor and all parties, whether or not they responded, and on any guarantors not yet joined (or the lender risks losing claims against them). For occupied residential property, the order should give occupants a reasonable time to leave: generally about 30 days.

What the approval order usually includes

1. Approval of the sale to the named buyer at the price and on the terms set out.
2. **Vesting of title** in the buyer on registration of a certified copy of the order and counsel's letter (LEA s. 37; Rule 21-7(9)).
3. **Clearing of charges:** the petitioner's and later charges are cancelled, including charges registered after the CPL (LTA s. 30; Rule 21-7(4)). Prior charges stay unless paid out and discharged.
4. **Distribution of proceeds**, usually through the trust account of counsel presenting the offer.
5. **Possession:** a date for vacant possession and liberty to issue a writ of possession.
6. Costs, commission and any personal property or manufactured home registry directions.

13 Step 9 – The approval hearing and sealed bids

The approval hearing is a short, public chambers hearing. It can turn into a live auction run by the court.

Sealed bid rules under PD-66 (since March 3, 2025)

- Competing bidders give their sealed bid to the listing REALTOR® or conduct counsel, who must collect and assemble every bid **in the courtroom by 9:45 a.m.** on the hearing day.
- Each bid includes a **copy** (not the original) of the proof of deposit.
- The original buyer may improve its offer only by the same deadline.
- The court decides how bids are presented. Bids after 9:45 a.m. are at the presiding judge's discretion.
- In-person attendance is expected. If remote attendance is allowed and bids are expected, an agent must attend in person to present them.

What a competing bid must contain

- ☐ A complete Contract of Purchase and Sale on the same or better terms, **free of subjects**.
- ☐ An "as is, where is" term and the conduct party's **Schedule A**, signed.
- ☐ The buyer's correct full legal name(s).
- ☐ A copy of a deposit cheque or bank draft for the amount required.
- ☐ The price, completion date and any other terms clearly stated.

How the hearing runs

1. The matter is called. Conduct counsel presents the application, marketing evidence and the original offer.
2. Sealed bids are handed up and opened, as the court directs.
3. Depending on the court, bidders may be invited to improve in a second round. Courts in Victoria have favoured a two-step process (*CIBC Mortgages Inc. v. Oddoux*, 2016 BCSC 251). The Court of Appeal held that the method of handling bids is a matter of practice and upheld a one-step process (*Reliable Mortgages Investment Corp. v. Gautam*, 2017 BCCA 233). Expect it to vary by judge and registry.
4. Counsel recommends an offer. The court decides. The highest price usually wins, but the court can prefer a bigger deposit, quicker completion or more certain terms. Where bids are nearly identical, the first offer may be preferred (*Bank of Nova Scotia v. Marvin*, 2016 BCSC 1033).
5. The court approves the sale, adjourns for more marketing, or refuses approval.

IF YOU WIN

The deposit is due at once if it was not already paid, the contract becomes firm on the court's terms, and completion follows. You cannot back out without losing the deposit and facing damages.

IF YOU LOSE

Your bid is returned with your deposit (or the copy of it). The original buyer's contract ends without liability if the court approves someone else.

APPEALS

Approval orders can be appealed to the BC Court of Appeal, though this is uncommon. Conduct counsel and the buyer's lawyer will advise whether to complete before the appeal period runs out.

14 Step 10 – Vesting order, completion and the money

A court-ordered sale closes much like a regular one, but title passes under the vesting order rather than a transfer signed by the owner.

Completion mechanics

1. The order approving sale is entered; conduct counsel obtains a certified copy.
2. The buyer's lawyer receives the certified vesting order, the approved statement of adjustments and a registration authorization letter, on undertakings to pay. The standard vendor's statement isn't used because its warranties are inappropriate for a court sale.
3. The buyer's lawyer registers the vesting order at the Land Title Office and pays the purchase price under the undertakings.
4. The buyer files the property transfer tax return and pays PTT on registration.
5. Conduct counsel distributes the proceeds under the order and pays out prior charges to obtain discharges.
6. Conduct counsel files a certificate of the result of sale, verified by affidavit (Rule 13-5(6), Form 60).

Where the money goes: order of payment

1	**Costs of the sale:** real estate commission (and GST on it) and conveyancing costs, as approved.
2	**Property taxes** owing, which rank ahead of mortgages, and utility charges added to taxes.
3	**Charges ranking ahead of the petitioner**, paid to get clean title (they are not cleared automatically because their holders were not parties).
4	**Strata liens** in the priority categories (Strata Property Act s. 116). Late fees and NSF charges generally don't qualify.
5	**The petitioner's mortgage:** principal, interest to completion, protective disbursements and assessed or agreed costs.
6	**Later charges** in order of registration: second and third mortgages, judgments, liens.
7	**Surplus to the owner**, or into court if there is a dispute.

The exact order is set by the court in each case and depends on the charges on title and any statutory priorities (for example Crown claims). Treat this as the usual pattern, not a rule.

Title: what the buyer gets

- Charges of the petitioner, the later chargeholders named as parties and anything registered after the CPL are cleared.
- Later charges registered **before** the CPL whose holders were **not** joined are not released. Conduct counsel must deal with these in the distribution.
- Easements, covenants, rights of way, statutory rights of way and similar non-financial charges usually stay. They are part of what the buyer is buying.

15 Step 11 – Possession, tenants and occupants

Getting the occupants out is often the slowest and most sensitive part of a court sale. Owners, tenants and unknown occupants are treated differently.

Owner-occupants

- The order approving sale usually requires the owner to give vacant possession by a set date, generally about 30 days after the order for residential property.
- If they don't leave, conduct counsel obtains a **writ of possession** from the registry, and court bailiffs enforce it. Bailiff costs are usually paid from the proceeds or added to the debt.
- Belongings left behind are dealt with under the order and the bailiff's procedures. Buyers should not remove anything themselves without legal advice.

Residential tenants

RULE	WHAT IT MEANS
RTA s. 94	A court order in a foreclosure affecting possession is generally not enforceable against a tenant who was not a party to the proceeding.
***First National Financial GP Corp. v. Sirotka*, 2011 BCSC 340**	A tenant is generally bound by the mortgage terms and must give up possession if the mortgagor must. But a tenant in possession before the proceeding who was not named is likely protected by the RTA notice provisions. The court read "tenant" in s. 94 to mean a tenancy entered into before the CPL was registered. Lenders must identify occupants and tell the court.
Naming tenants	Good practice is to name and serve tenants as respondents, so any possession order binds them.

RULE	WHAT IT MEANS
Buyer wants to move in	If a tenancy carries over, a buyer who intends to live there (or have a close family member do so) asks the seller in writing to end the tenancy. Since July 18, 2024 the notice must be generated through the government's **Landlord Use Web Portal**, gives **four months**, and the tenant has **30 days** to dispute. A bad-faith eviction can cost 12 months' rent.
Rent	Rent stays payable until the tenancy ends under the RTA or by court order. The court can direct rent to a receiver or other party.
Manufactured home park sites	The *Manufactured Home Park Tenancy Act* has a matching provision (s. 86).

FOR BUYERS

Before bidding on a tenanted property, find out who lives there, under what agreement, at what rent, and whether the tenants were named in the foreclosure. Ask whether the approval order will give vacant possession. If not, budget for at least four months of the tenancy continuing, plus one month's rent compensation, before you can take possession for your own use.

16 Step 12 – Shortfall: deficiency and personal judgment

Selling the property does not cancel the debt. If the proceeds don't cover what is owed, the borrower and guarantors stay personally liable.

- The order nisi usually includes a **personal judgment** against the mortgagor and covenantors for the full amount. After the sale, the lender credits the net proceeds and can enforce the balance: garnishing wages or bank accounts, registering judgment against other land, examinations in aid of execution, and so on.
- **Guarantors** are liable if they were named and given notice. A lender that does not give a guarantor notice of the sale approval risks losing the claim against them.
- **Original borrowers who sold** to someone who assumed the mortgage may still be liable unless released (PLA ss. 20–24). A later purchaser who assumes can also be liable.
- **Bankruptcy:** the shortfall is an unsecured claim and is generally released on discharge. The lender's security itself is not stayed by bankruptcy (BIA s. 69.3(2)).
- **Other unpaid creditors** whose charges were cleared can still sue on their debts.

Where there is no equity, borrowers often negotiate to consent to the sale or a quick transfer in exchange for a written full release, avoiding a large personal judgment.

17 The alternative: order absolute

An order absolute transfers the property to the lender outright and ends the case. Lenders seldom choose it.

- **Effect:** it ends the right to redeem and gives the lender immediate possession. On registration, the lender becomes owner free of later charges but subject to prior ones.
- **No more personal claim:** once an order absolute is granted, the lender cannot sue on the personal covenant (PLA s. 32), and this extends to guarantors (*Walter E. Heller Financial Corp. v. Timber Rock Enterprises Ltd.* (1982), 40 B.C.L.R. 85 (SC)). Any personal judgment must be pursued before the order absolute.
- **When it's used:** where the property is worth more than the debt and the lender wants it, or the property is hard to sell. Conduct of sale is usually better for an underwater property, because the lender keeps the personal judgment.
- **Procedure:** after redemption expires, a registrar's certificate that no money was paid into court, affidavits from counsel and lender confirming no payment, and service on all parties (Rule 21-7(6)). The owner can oppose by showing equity and a realistic prospect of paying.
- **Costs to the lender:** property transfer tax on registration; possible environmental liability as owner (*Environmental Management Act*; check whether a site profile is required).
- **Reopening:** the borrower (not the lender) can apply to reopen even after transfer, under "once a mortgage, always a mortgage" (*1002805 B.C. Ltd. v. 0975403 B.C. Ltd.*, 2016 BCSC 851).

18 Special situations

Many Okanagan files involve one of these. Each changes the procedure or the risk, and needs a lawyer who has handled it before.

SITUATION	WHAT CHANGES
Strata property	The strata corporation can register a lien for unpaid fees (SPA s. 116), and certain amounts rank ahead of mortgages. Lenders often pay strata fees as protective disbursements. Buyers should get Form B and the depreciation report; special levies and bylaws carry over.
Second and third mortgages	Later lenders are named as respondents and are wiped out if the proceeds don't reach them. To protect themselves they can apply for conduct of sale, buy the property, or pay out the first mortgage.
Borrower bankrupt or in a proposal	The secured lender can usually proceed (BIA s. 69.3(2)), though the court can postpone it in limited cases. Consumer and Division I proposals have their own stay rules. The trustee should be served. A shortfall claim is filed in the bankruptcy.
Commercial and revenue property	BIA s. 244 10-day notice for insolvent businesses. Assignment of rents lets the lender redirect rent. A receiver may be appointed (LEA s. 39; BIA s. 243; PD-47 model orders). Commercial leases, non-disturbance agreements and GST need attention.
Farm property	The *Farm Debt Mediation Act* definition of "farmer" is broad. 15 business days' notice is required, and a farmer can apply for a stay and mediation.
Construction and development	Builders' liens, home warranty (*Homeowner Protection Act* s. 22) and, for five or more lots or strata lots, the *Real Estate Development Marketing Act*. Receiver borrowings don't rank ahead of builders' liens without consent.
Manufactured homes	Search the Manufactured Home Registry (registered or exempt). Personal property security and "seize or sue" issues under the PPSA (s. 55(6)). Inspector's affidavit if the home is affixed. Silver safety label before listing.
Deceased owner	Death certificate and probate search. Serve the personal representative. If there is no estate representative, the court may appoint one or give directions.
Dissolved company owner	A BC company dissolved more than two years may need restoring first. Land of a dissolved company escheats to the Crown and must be vested back before proceeding.
First Nations land	Different registries and rules. Reserve leaseholds held by First Nations persons can be mortgaged and seized only if the land is designated (*Indian Act* s. 89(1.1)). Get specialist advice.
Leasehold property	Review the head lease, consent-to-transfer requirements and landlord defaults. Relief from forfeiture may be needed.

SITUATION	WHAT CHANGES
Abandoned or damaged property	Grounds to shorten redemption, get early conduct of sale, or appoint a receiver. The lender should secure, insure and heat the property and record its condition.
Environmental issues	Contaminated Sites Regulation, Schedule 2 activities; site profile requirements. A lender taking title by order absolute can become liable.
Private loans and fraud risk	The Law Society's Private Lending Discipline Advisory requires lawyers to ask questions and record them where something looks wrong.

19 Interest, costs and fees

The amount owing keeps growing during the case. Everyone should understand what can and can't be added.

ITEM	RULE
Interest	Runs at the mortgage rate to payment, shown in the order nisi as a per-diem. For variable rates, the lender must give a detailed calculation. *Interest Act* s. 8: no fine, penalty or higher rate on arrears beyond the rate on principal not in arrears.
Prepayment penalty	Cannot be claimed once the lender demands the full balance.
Protective disbursements	Taxes, insurance, strata fees, utilities and repairs paid by the lender to protect its security are added if the mortgage allows. Each must be itemized in the accounting affidavit.
Legal costs	Court costs are Scale A party-and-party unless the court orders otherwise, and Scale B where the foreclosure was contested (*Three Point Capital*, 2026 BCSC 137). Many mortgages entitle the lender to solicitor-and-client costs as part of the secured debt. Costs are added to the debt once assessed or agreed. Waiting until after sale is common, as there may be no equity left to pay them.
Redemption notice	If a respondent gives notice under Rule 21-7(10) that it intends to redeem, the lender must arrange a costs assessment within 14 days or risk losing assessed costs.
Commission	Fixed by the listing agreement and approved by the court. Payable only on completion of an approved sale.
Receivers and bailiffs	Receivers' fees are approved by the court and closely reviewed. Bailiff costs to enforce a writ of possession are usually recovered from the proceeds or added to the debt.

Buyer's transaction costs

COST	NOTES (VERIFY CURRENT RATES BEFORE RELYING ON THEM)
Property transfer tax	Payable on registration of the vesting order: generally 1% of the first $200,000, 2% to $2 million, 3% above $2 million, plus a further 2% on the residential portion above $3 million. First-time buyer and newly built home exemptions may apply if their conditions are met.
GST	Usually not payable on used residential property. May apply to new or substantially renovated homes, commercial property and vacant land sold in the course of business.
BC Home Flipping Tax	Applies to residential property sold within 730 days of purchase (effective January 1, 2025). The government's published exemptions do not list court-ordered sales; buyers planning a quick resale should get tax advice.
Speculation and Vacancy Tax	Applies in designated areas, including several Okanagan communities. Requires an annual declaration; vacant or non-resident ownership can trigger it.
Federal non-Canadian buyer ban	The *Prohibition on the Purchase of Residential Property by Non-Canadians Act* was extended to January 1, 2027, with exceptions. Check its status for any purchase completing around that date.
Other	Legal fees, title insurance, inspection, appraisal, insurance from completion day, utilities, rekeying, cleanup and repairs.

20 Buying a court-ordered sale: the buyer's guide

Court sales reward buyers who are prepared, financed and patient, and punish buyers who skip due diligence.

Before you write an offer

- ☐ Get the court file number and read the orders (conduct of sale, any access or possession terms) and the Schedule A with your lawyer.
- ☐ Pull a title search: charges, legal notations, easements and covenants that will stay.
- ☐ Confirm occupancy (owner, tenant or vacant) and what the order says about vacant possession.
- ☐ Arrange financing that does not rely on a subject. Get a full approval, including the lender's appraisal and property review where possible. Court sales can't be subject to financing at the hearing.
- ☐ Inspect: home inspection, sewer scope, oil tank search, septic and well where relevant, mould and grow-op history, permits and zoning with the municipality.
- ☐ For strata: Form B, minutes, depreciation report, bylaws, insurance certificate, special levies, rental and short-term rental limits.
- ☐ Budget for repairs, cleanup, utilities, insurance (vacant properties can be hard to insure), PTT and legal fees.
- ☐ Decide your walk-away price before the hearing.

Two ways to buy

THE ORIGINAL OFFER

- You can include subjects and do your due diligence on a timeline.
- Your offer sets the floor for the hearing; others can outbid you.
- You carry the costs of inspections and legal review with no guarantee.
- You may improve your offer by 9:45 a.m. on hearing day.

THE SEALED BID

- You see the property is "subject to court approval" and bid at the hearing.
- Your bid must be subject-free, with Schedule A and a deposit copy.
- All due diligence must be done before the hearing.
- If the court picks you, you are bound.

Risks to understand

- **As is, where is:** no warranties, usually no disclosure statement, no recourse against the seller for defects. The REALTOR®'s duty to disclose known material latent defects still applies.

- **No rescission period:** the BC Home Buyer Rescission Period does not apply once a court-ordered sale is approved.
- **Uncertainty:** the owner can redeem until approval; the court can refuse; you can be outbid.
- **Timeline:** completion and possession follow the court's dates, not yours; tenants or owners may need to be removed.
- **Condition at possession:** you take the property in the condition it is in on completion. Insure from the moment risk passes.

> **GET YOUR OWN LAWYER EARLY**
> Have a BC real estate lawyer review the order, Schedule A and title before you write or bid, not after. The approval hearing is not the place to discover a problem.

21 For lenders: running a sale the court will approve

The lender with conduct of sale wants the highest net recovery, the fewest adjournments and an approval order on the first hearing. Most refusals come down to weak marketing evidence.

What causes refusals and adjournments

- Price well below appraisal without a market explanation (*Providus*, 2016 BCSC 955).
- Too little time on the market, or marketing that stopped once an offer came in.
- Stale appraisals or values based only on BC Assessment.
- Hearsay marketing reports without a proper affidavit (*Elite Mortgage v. Derewenko*, 2019 BCCA 125).
- Parties or guarantors not served; tenants not identified.
- Strata, tax or prior-charge figures missing from the distribution.

The lender's checklist for each file

1. **Early valuation:** a broker price opinion and comparables before going to court, to decide on a shortened redemption request.
2. **Secure the asset:** check insurance, heat, utilities and vacancy; document condition with photos and video.
3. **Appraisal** close to the conduct application, and again if marketing runs long.
4. **Listing terms** that match the order (Section 10), with an experienced court-sale brokerage.
5. **Weekly written reporting** on showings, feedback, offers and price recommendations.
6. **Marketing affidavit** sworn by the listing REALTOR®, with exhibits.
7. **Buyer management:** keep every interested buyer informed about the hearing date and PD-66 bid rules, so the hearing tests the market.

8. **Completion:** coordinate possession, keys and the bailiff if needed; produce a closing summary of costs and recovery.

WHY THE RIGHT LISTING TEAM MATTERS

The court approves the price, but the REALTOR® builds the record the court relies on. A team that knows court-sale practice keeps marketing to the hearing, briefs competing bidders on the 9:45 a.m. rules, and gives conduct counsel a clean, sworn marketing history. That is how lenders get approval at the first hearing and the best net recovery.

22 The REALTOR®'s role and obligations

Court sales carry the same licensing duties as any other trade, plus the court's rules on top.

Listing REALTOR® (acting for the conduct party)

- ☐ Get the conduct order and confirm who the client is, the authority and any marketing, inspection or commission terms.
- ☐ Sign the listing in the conduct party's name with the required clauses (Section 10).
- ☐ Make sure every offer is subject to court approval and includes Schedule A.
- ☐ Disclose known material latent defects before a contract is made (Real Estate Services Rules s. 59). This cannot be contracted out of. If instructed not to disclose, the REALTOR® must stop acting.
- ☐ Disclose remuneration and avoid dual agency: BC rules generally prohibit acting for both buyer and seller in the same trade.
- ☐ Keep marketing until approval; mark the listing "subject to court approval".
- ☐ Collect sealed bids and deliver them to conduct counsel in the courtroom by 9:45 a.m.
- ☐ Keep a complete marketing log and be ready to swear an affidavit.
- ☐ Involve the managing broker early.

Buyer's REALTOR®

- ☐ Explain the process and risks in writing, including that the original offer can be beaten and the sale is final once approved.
- ☐ Recommend independent legal advice on the contract and Schedule A.
- ☐ Confirm financing is firm and due diligence is complete before a sealed bid.
- ☐ Prepare a compliant sealed bid (Section 13) and attend or arrange delivery in time.
- ☐ Warn the client that late bids are at the court's discretion.

Advertising and privacy

- BCFSA advertising rules apply: brokerage name clearly shown, and the listing brokerage's consent to advertise another brokerage's listing.
- Be respectful of borrowers and occupants: no stigmatizing language, no photos of personal belongings that identify people, no disclosure of personal financial details beyond the public record.
- Handle personal information under BC's *Personal Information Protection Act*; follow CASL for electronic marketing.

23 Frequently asked questions

The questions lenders, buyers and owners ask most, answered as of October 2026.

CAN THE OWNER STOP THE SALE AFTER I'VE SIGNED?

Yes, until the court approves it, by paying out the redemption amount and costs. Then the contract ends and the deposit is returned.

DO I HAVE TO BID IN PERSON?

Your bid must be in the courtroom by 9:45 a.m. Your REALTOR® or lawyer usually delivers it. You can attend, but you don't have to.

HOW MUCH DEPOSIT?

Whatever the conduct party and the original contract set. Bring a copy of a bank draft or cheque for at least that amount. A larger deposit can make a bid more attractive.

IS THE HIGHEST BID ALWAYS APPROVED?

Usually, but not always. The court can prefer better terms or certainty, and may run a second round.

CAN I INCLUDE A FINANCING OR INSPECTION SUBJECT?

In the original offer, yes, but it must be removed before the hearing. A sealed bid must be subject-free.

WHO GETS THE PROPERTY'S CONTENTS?

Normally nothing but the land and fixtures is sold. Leftover belongings are handled under the order; don't dispose of them yourself without advice.

WHAT ABOUT UNPAID STRATA FEES AND TAXES?

They are paid from the proceeds under the order. You adjust taxes and strata fees from the completion date as in any sale.

HOW LONG UNTIL I GET THE KEYS?

On completion if the property is vacant. If occupied, on the vacant possession date in the order (often about 30 days after approval), or later if tenants have RTA rights.

CAN THE BORROWER APPEAL?

Yes, though this is uncommon. Your lawyer will advise on the timing of completion.

DOES THE LENDER HAVE TO SELL AT MARKET VALUE?

It must market the property in a businesslike way and get a price the court finds provident. The court is the safeguard.

WILL I GET A PROPERTY DISCLOSURE STATEMENT?

Usually not. The REALTOR® must still disclose known material latent defects.

CAN I SEE THE APPRAISAL?

Usually not. It is often filed sealed so it does not cap the bidding.

WHAT IF THE COURT SAYS NO?

Your contract ends and your deposit is returned. The property may be re-marketed or a different offer approved.

IS THE BORROWER OFF THE HOOK AFTER THE SALE?

No. Any shortfall is still owed under the personal judgment, unless the lender took an order absolute or gave a release.

CAN A SECOND MORTGAGEE FORCE A SALE?

Yes. Any party of record can apply for conduct of sale, often around three months into redemption.

ARE FORECLOSURES LISTED ON MLS®?

Most court-ordered sales are listed on MLS® and marked "court ordered sale" or "subject to court approval".

24 Case law table

Leading BC decisions on foreclosure and court-ordered sales referred to in this guide. A lawyer should read the full decision before relying on any of them.

CASE	PRINCIPLE
Mission Creek Mortgage Ltd. v. Angleland Holdings Inc., 2013 BCCA 281	Find a buyer in a businesslike manner; the sale must be provident in all the circumstances.
Romspen Mortgage Corp. v. Lantzville Foothills Estates Inc., 2013 BCSC 2222	Offers and market exposure are the best evidence of value; an appraisal is only an opinion.
Providus Mortgage Investment Corp. v. JDS Properties Ltd., 2016 BCSC 955	Sale refused: offer well below appraisal after a long gap in marketing, in a strong market.
Bank of Nova Scotia v. Marvin, 2016 BCSC 1033	Where sealed bids are nearly identical, prefer the first offer.
CIBC Mortgages Inc. v. Oddoux, 2016 BCSC 251	A two-step sealed bid process was favoured.
Reliable Mortgages Investment Corp. v. Gautam, 2017 BCCA 233	Method of handling bids is a matter of practice; a one-step process was upheld.
Addenda Capital Inc. v. 0781995 B.C. Ltd., 2016 BCSC 957	Approval of a backup offer is unenforceable.
Elite Mortgage Corp. v. Derewenko, 2019 BCCA 125	Marketing reports need a sourced, verified affidavit; no hearsay for final orders.
Pope v. Roberts (1979), 10 B.C.L.R. 50 (CA)	Conduct of sale during redemption generally conflicts with the right to redeem.
CIBC Mortgage Corp. v. Gomez, 1997 CanLII 1823 (BCSC)	Concurrent order nisi and conduct of sale only in special circumstances.
HSBC Bank Canada v. A.S. Bains Developments Ltd., 2015 BCSC 2194	No standard sale order at the petition hearing to take effect when redemption expires; *Reliable v. Longiye*, 2015 BCSC 903, is not the usual order.
Canada Permanent Mortgage Corp. v. Dan-Al Construction Co., [1982] B.C.J. No. 2339 (CA)	To extend redemption or resist an order absolute: show equity and a realistic prospect of paying.
Western Arres Capital Inc. v. Currey, 2011 BCSC 522	Uncontested petitions can be heard by an associate judge; the order nisi is a final order.
Island Savings Credit Union v. Brunner, 2014 BCCA 449	The court can continue or transfer a foreclosure to another venue.

CASE	PRINCIPLE
First National Financial GP Corp. v. Sirotka, 2011 BCSC 340	Tenants and foreclosure: RTA s. 94; tenancies before the CPL; the lender's duty to identify occupants.
Peoples Trust Co. v. Meadowlark Estates Ltd., 2005 BCSC 51	No Form F needed for a court-ordered sale of a strata lot.
Walter E. Heller Financial Corp. v. Timber Rock Enterprises Ltd. (1982), 40 B.C.L.R. 85 (SC)	The PLA s. 32 bar after an order absolute extends to guarantors.
1002805 B.C. Ltd. v. 0975403 B.C. Ltd., 2016 BCSC 851	An order absolute was reopened to let the mortgagor redeem.
R.E. Lister Ltd. v. Dunlop Canada Ltd., 1982 CanLII 19 (SCC)	Reasonable time to pay after demand before enforcing security.
Royal Bank of Canada v. Lord, 2011 BCSC 1623	Unsecured debts may be included in the foreclosure petition.
Three Point Capital Corp. v. Monn, 2026 BCSC 137	Recent example: six-month redemption from the original hearing date; Scale B costs where contested.

25 Sources and further reading

Primary sources first. Check the current version of each before relying on it.

Primary law and court materials

- Supreme Court Civil Rules, B.C. Reg. 168/2009, Rules 4-3, 4-4, 8-1, 13-1, 13-5, 16-1, 18-1, 21-7, 22-2 (BC Laws: bclaws.gov.bc.ca).
- BC Supreme Court Practice Direction PD-66, *Foreclosure Proceedings*, effective March 3, 2025, updated March 31, 2026 (bccourts.ca).
- *Law and Equity Act*, RSBC 1996, c. 253; *Property Law Act*, RSBC 1996, c. 377; *Land Title Act*, RSBC 1996, c. 250; *Limitation Act*, SBC 2012, c. 13; *Strata Property Act*, SBC 1998, c. 43; *Residential Tenancy Act*, SBC 2002, c. 78.
- *Interest Act*, RSC 1985, c. I-15; *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3, ss. 69.3, 243, 244; *Farm Debt Mediation Act*, SC 1997, c. 21.
- Decisions listed in Section 24 (CanLII: canlii.org).

Practice guides

- Law Society of British Columbia, *Practice Checklists Manual: Foreclosure Procedure (E-1)*, current to September 4, 2025.

- Continuing Legal Education Society of BC: *British Columbia Creditors' Remedies*; *Foreclosure Practice 2025*; *Supreme Court Chambers Orders: Annotated*.
- BCREA, "Proceeding With Caution: Court-Ordered Sales in the Foreclosure Context", Legally Speaking #590.
- Clicklaw Wikibooks, *Foreclosure* (borrower's perspective); People's Law School, "If you're facing foreclosure".
- Legal Aid BC, "Foreclosures and Residential Tenancies" (Pacific Advocates Conference, 2020).
- Greater Vancouver REALTORS®, "Landlords required to use new website to create personal-use eviction notices" (RTA amendments, July 18, 2024).
- Government of BC, "Exemptions from the BC home flipping tax".

DISCLAIMER

This guide gives general information about BC foreclosure law and court-ordered sales as of October 2026. It is not legal, tax or financial advice and does not create a lawyer-client or agency relationship. Court practice varies by registry and presiding judge, and statutes, rules and practice directions change. Before acting on any foreclosure, sale or purchase, get advice from a BC lawyer about your specific situation. John McMahon and Kaila Klassen are licensed REALTORS® with Royal LePage Kelowna; they are not lawyers and do not provide legal advice.

QUESTIONS ABOUT A COURT-ORDERED SALE IN THE OKANAGAN?

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